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January 17, 1991

Donna R. Searcy, Secretary  
Federal Communications Commission  
Washington, D.C. 20554

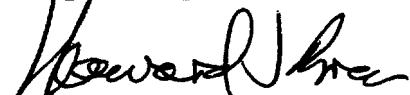
Re: MM Docket No. 87-268  
Notice of Proposed Rulemaking  
Advanced Television Systems

Dear Ms. Searcy:

On behalf of our client, Island Broadcasting Co., license of three New York LPTV stations, transmitted herewith for filing are an original and nine (9) copies of its "REPLY COMMENTS" in the above-referenced matter.

Please direct all inquiries and communications concerning this matter to the undersigned.

Very truly yours,

  
Howard J. Braun

Enc.

cc: Keith Larson, Chief (FCC - By Hand)  
Mary M. Fitzgerald, Esq. (FCC - By Hand)  
Regina Harrison (FCC - By Hand) (all w/enc.)

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact upon the ) MM Docket No. 87-268  
Existing Television Broadcast )  
Service )

TO: The Commission

REPLY COMMENTS OF ISLAND BROADCASTING CO.

ISLAND BROADCASTING CO. ("Island"), licensee of LPTV Stations W38AM, Long Island City, New York, W44AI, Plainview, Hicksville, and Mineola, New York, and W54AY, Brownsville, New York, by its attorneys, hereby submits its Reply Comments in the above-captioned rulemaking proceeding. In support whereof, the following is shown:

I. INTRODUCTION

1. At the outset, for illustrative purposes, Island wishes to elaborate upon its LPTV policies and practices in the New York area in order to put its original rulemaking Comments and these Reply Comments into proper context.

2. Island urges that in this proceeding the Commission should treat Island's three LPTV stations as representative models of LPTV's significant public interest role and importance in television broadcasting in major metropolitan areas. If LPTV's public interest role and importance are properly weighed, Island believes that the resulting balanced rules will accomplish the Commission's stated goal of integrating ATV into the existing

television broadcast service rapidly, while at the same time causing the least displacement and dislocation of licensed and regularly broadcasting LPTV stations, which certainly should be another public interest objective of this proceeding.

3. Under the guidance of Island's Technical Director and partner, Richard D. Bogner, Island and its predecessor companies have, since 1982, been broadcasting LPTV to ethnic, minority, religious, and student groups in the New York City metropolitan area and adjacent Nassau County. Island's three stations together now reach over four million New York City households with live creative LPTV programming in up to 15 languages. Innovations are constantly made. For example, live, fully interactive, educational programming is currently being planned for high school and college students in association with the New York Institute of Technology.

4. In meshing its public interest objectives with cost-effective station operation, Island has chosen to supply its three stations with the finest available equipment, while it sells time for its multiple program services at as little as \$60 per half-hour. Most importantly, fully aware of the engineering implications of LPTV's "secondary status" vis-a-vis full power television stations, Island has always been able to design its antennas and ERP levels to eliminate interference to full power stations -- even as it has concentrated simultaneously on providing a quality broadcast signal throughout its service areas -- and confidently anticipated being able to operate within that regulatory framework into the foreseeable future.

5. However, in making its public interest, engineering, and financial decisions, neither Island nor other LPTV licensees anticipated that the Commission might introduce a completely new set of "secondary status" ground rules in this proceeding -- requiring an additional level of protection for ATV channels -- which, depending on how the Commission allots and assigns these ATV channels -- could destroy LPTV operations in major metropolitan areas like New York. Nor did the viewers of Island's and other LPTV stations, who are already indicating their concern over losing their only practical TV outlet, anticipate that any new broadcast technology, such as ATV, might be introduced without taking the greatest care to preserve existing and proven LPTV programming services.

**II. MINIMIZING LPTV DISPLACEMENT SHOULD BE  
A MAJOR GOAL OF THIS PROCEEDING**

6. With Island's established record of public service and its genuine concerns about short shrift being given to established LPTV stations as background, Island expresses its complete support for the Comments of Third Coast Broadcasting Inc. ("Third Coast"), licensee of LPTV Station K56DP, Houston, Texas, in this proceeding. While Island agrees with all of Third Coast's views, it especially endorses the position entitled "F. Channel Allotments could be made which would Minimize the Displacement Impact on LPTV" (Comments, p. 4).

7. Island cannot conceive of any basis under which any "judge or jury" (or, hopefully, the Commission) would agree to take

away the license of an operating LPTV station while other television channels are available for ATV in a community and are not so used and are left unused! Island strongly urges that the only fair procedure in channel allotments is to allow a full power station to perform its engineering studies, based on a proposed ATV location, and to choose a channel, ERP, etc., and then to require the full power station to demonstrate that its proposal clears all taboos and does not displace any licensed LPTV station unless provably necessary. Furthermore, as Island stated in its previous Comments, a full power station should be required to build its ATV facilities within two years after grant of its application (as the Commission proposed in the NPRM herein) so as not to "stockpile" channels or cause unnecessary loss of any existing service.

### III. TRANSLATOR STATIONS SHOULD NOT RECEIVE ANY PREFERENCE OVER LPTV AND MAY DESERVE A "DEMERIT"

8. Island also replies briefly to the Joint Broadcaster Comments of 96 broadcast organizations regarding television translator stations and their proposal that translators be given preference over LPTV (Comments, pp. 33-35). Of course, Island considers the kinds of innovative, live, local programming services offered by LPTV stations such as Island to be at least equally important with translator stations' sterile rebroadcast services. Even in 1984, the Commission realized that this would be so when it held in Report and Order in MM Docket No. 83-1350 (Low Power Television and Television Translator Service), 102 FCC 2d 295, 308 (1984), that no translator priority over LPTV was warranted because

a translator priority "would severely impair the present flexibility for providing new originating services" by LPTV stations.

9. In the same Report and Order (at 305), the Commission also stated that "there is a much greater probability that [LPTV] stations will establish a local presence...and be more responsive to community needs and interests" than translator stations. Island believes that the Commission's faith in LPTV's promise has been fully vindicated by events and that, as a result, if any preferences are to be awarded between LPTV and translator stations, it is the LPTV stations that are entitled to an allotment/assignment displacement priority over translator stations if enough other channels are not available in a community to satisfy the ATV requirements of full power stations.

10. In deciding on displacement priorities, Island urges that in addition to considering LPTV stations' programming superiority to translator stations, the Commission should also take note of the fact that many translators have one or more of the following "illegal" characteristics: (1) they provide no really needed fill-in coverage service; (2) they do not meet one or more engineering taboos and have received no waivers; and (3) they should have ceased operations long ago according to the terms of their own licenses.<sup>1</sup> Therefore, when considering the necessity for allotment

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<sup>1</sup> As examples of translator stations that are no longer justifiable under the terms of their licenses, Island cites three cases: W64AA, New York NY, translator of Station WNYW(TV), Chan. 5, New York NY; W73AP (Chan. 17), New York NY, translator of Station WPIX(TV), Chan. 11, New York NY; and W60AI, New York NY, which originally was a translator of Station WHSE(TV), Chan. 68, Newark NJ, but later converted to LPTV status. W64AA has a protected contour within the

or assignment displacement, Island maintains that the Commission should consider the actual situation with regard to any particular translator. Where the translator has one or more of the above characteristics, the Commission should not only refuse to grant an allotment or assignment preference over a licensed LPTV station, but, moreover, the Commission should actually place such a translator in a lower category of importance than a licensed LPTV station providing a valuable programming service to a community.

#### IV. CONCLUSION

WHEREFORE, in light of the foregoing, Island respectfully requests that the Commission should adopt ATV rules which: (1) place a five-year limit on the amount of time allowed for existing broadcasters to file for and construct their ATV facilities; (2) allot and assign ATV channels using an "unpaired" Table of Assignments (minimizing the displacement impact on licensed LPTV

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city grade of WNYW, but WNYW is received excellently in all of Channel 64's coverage area. Meanwhile, W64AA is shortspaced to Stations WNJM (Chan. 50), WMBC (Chan. 63), and WHSE (Chan. 68), and W64AA's license has a condition that the Commission may cancel it if the need for a translator no longer exists.

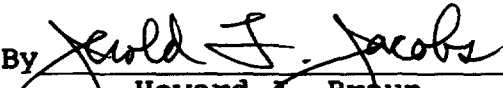
Similarly, W73AP has a protected contour within the city grade of WPIX, but WPIX is also received excellently in all of Channel 17's coverage area, the translator has operated on Channel 17 on an STA basis since Channel 73 was withdrawn for land mobile use several years ago, and it has the same license condition as W64AA.

Finally, W60AI has a protected contour within the city grade of WHSE, but WHSE is received excellently in all of Channel 60's coverage area, W60AI is shortspaced to WHSI (Chan. 67), and W60AI's original license contained the condition that operation would be discontinued when WHSE moved to New York, which happened years ago.

stations); and (3) either treat LPTV and translator stations as equal for displacement purposes or give LPTV stations a preference over translators.

Respectfully submitted,

ISLAND BROADCASTING CO.

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Dated: January 17, 1992